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D.B. CIVIL SPECIAL APPEAL NO.921/2006.
[M/S KATARIA TOURS & TRAVELS PVT. LTD. VS. STATE & ORS.]
Date of Order : 12.07.2007

HON'BLE THE ACTING CHIEF JUSTICE SHRI RAJESH BALIA
HON'BLE JUSTICESHRI MAHESH CHANDRA SHARMA

Mr.J.P.Joshi for the appellant.
Mr.K.L.Thakur AAG for the respondent.

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Having heard learned counsel for the parties we are of the opinion that in the present case what is sought to be done by the respondents is to recover the dues of M/s Kataria Tours & Travels Pvt. Ltd. Company registered under the Indian Companies Act and having independent existence as a juristic person with a perpetual existence and seal of its name from the appellant Company which has independent existence also being registered as Company under the Indian Companies Act and having invested with an independent juristic personality. Ordinarily, the dues against one company cannot be recovered from another Company merely because there is communality of management as a matter of course. Permitting the same could be defying the very concept of company as an independent juristic person, which is permissible under the law.

So far as this aspect is concerned, there is no dispute that the dues which are sought to be due from the appellant Company are dues against another Company viz. M/s Kataria Tours & Travels Pvt. Ltd., who owns the vehicle in respect of which road tax is said to be due.

Apparently, for such dues, recovery proceedings against the appellant Company cannot be maintained unless in an appropriate proceedings the corporate vied of the two companies is successfully lifted. Nothing has been shown that the respondents before proceedings against the appellant had made any such attempt to establish that the two companies really do not exist but in fact the corporate face is only a cloak. In the absence of any such enquiry, the recovery against the appellants cannot be allowed to be continued.

In that view of the matter the order passed by this Court in this appeal on 20.12.2006 is made absolute. The writ petition accordingly also stands disposed off.

(MAHESH CHANDRA SHARMA),J. (RAJESH BALIA)A. C.J.

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